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### REMARKS

The subject RCE and this Preliminary Amendment address the issues set forth in the Examiner's Advisory Action dated February 9, 2004 as well as adding new claims to more clearly claim that which Applicants consider the invention. Specifically, the Examiner sustained his rejection of claims 1-14 based on the alleged disclosure and teachings of U.S. Patent No. 5,802,448 issued to Brown et al. (hereinafter Brown). In preliminary response to the Examiner's position, Applicant graciously thanks the Examiner for clarifying his position and enumerating specific sections of the cited art and his interpretation thereof in asserting his rejection of the claims. Applicant has hereinabove amended claim 1 and added new claims 15 and 16; no new matter has been entered. Claim 1 is repeated as follows:

A method for delivering short-time duration video segments in a multiplexed transport stream to terminals via a communications network, the method comprising:

- receiving from a terminal a request for a video segment corresponding to a selected object;
- processing the request at a session manager; and
- transmitting a control message from the session manager to a transport stream generator, said control message indicating whether one of the oldest transport streams of said multiplexed transport stream may be discontinued by said transport stream generator to release bandwidth, said transport stream generator transmitting said video segment if sufficient bandwidth is available, said transmitted video segment adapted for presentation at said requesting terminal and including a beginning portion of said video segment.

It is respectfully submitted that the cited art does not teach, disclose or suggest the subject invention. Specifically, the invention provides for a way of tracking and changing the statuses of demand-cast transport streams; hence, a multiplexed transport stream. As per FIG. 12, the accompanying description of same at Page 18 and Page 13, lines 11-24, statuses are assigned to streams in the multiplexed transport stream.

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The oldest streams represent the best candidates for replacement (i.e., the releasing of bandwidth) via control messaging from the Session Manager to allow for new streams to be inserted in the multiplexed transport stream and sent out along the communication network. Further, the subject invention presents how "Released" and "Acquired" streams in the multiplexed transport stream are tracked to facilitate the determination of which streams are the oldest; therefore, subject to replacement to release bandwidth.

Brown does not provide for such a tracking and selection process in its system. Brown merely makes a determination of resource constraint and sends appropriate presentations based on the constraint determination. That is, if the constraint indicates sufficient bandwidth, a first (more complex) presentation (i.e., video) is transmitted. If the constraint indicates insufficient bandwidth, a second (simpler) presentation (i.e., a still picture) is transmitted. What subsequently happens to these presentations is not considered in Brown. It is respectfully submitted that Brown only discloses an early assessment of how much bandwidth is available and not which streams will be replaced. There is no teaching of tracking usage and removing oldest streams in a multiplexed transport stream as claimed. Therefore, it is respectfully submitted that claim 1 as it presently stands is allowable in view of Brown and patentable under the anticipation statute.

Additionally, claims 2-14 depend, either directly or indirectly, from claim 1 and recite additional features of the invention. Similarly, new claims 15 and 16 depend from claim 1 and recite additional features regarding the labeling of "Acquired" and "Released" streams and the selection of oldest "Released" stream. As such, and for at least the same reasons discussed with respect to Claim 1, it is respectfully submitted that these dependent claims are also allowable in view of Brown and patentable under the statute.

Similarly, if Brown (with its indicated deficiencies as anticipatory art), is combined with any or all of Girard, Hendricks, the Examiner's Official Notice or Aharoni, the

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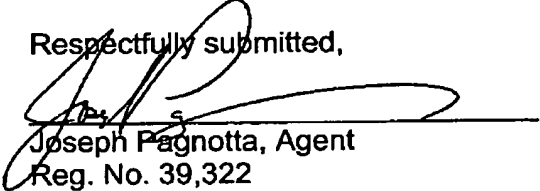
resultant combinations fail to suggest the claimed invention. As such, it is respectfully submitted that all claims in the application are allowable under the obviousness statute.

### CONCLUSION

Thus, the Applicants submit that all the claims presently in the application are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited. If at any point prior to preparation of the first Office Action in the subject RCE, Examiner believes a telephone call would assist in resolving one or more of the issues brought forth during the prosecution history, Applicants are open to discussion of these issues and requests Agent Joseph Pagnotta or Eamon J. Wall, Esq. be contacted at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

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Respectfully submitted,

  
Joseph Pagnotta, Agent  
Reg. No. 39,322  
(732) 530-9404

Moser, Patterson & Sheridan, LLP  
Attorneys at Law  
595 Shrewsbury Avenue, Suite 100  
Shrewsbury, New Jersey 07702

### CERTIFICATE OF FACSIMILE TRANSMISSION under 37 C.F.R. §§1.6 and 1.8

I certify that this correspondence is being transmitted by facsimile under 37 C.F.R. §§1.6 and 1.8 on February 23, 2004 and is addressed to Mail Stop Box RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, Facsimile Number: 703-872-9306.

Joseph Pagnotta

Type or print name of person signing certification

  
Signature